

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California Water Service Company (U 60 W), a Corporation, for an Order Establishing a Moratorium on New Service Connections in Excess of 250 Service Connections in the Coast Springs Water System Division of the Redwood Valley District.

Application 02-03-032
(Filed March 14, 2002;
Petition for Modification
Filed February 9, 2006)

ORDER MODIFYING DECISION 03-03-037**Summary**

California Water Service Company's (CalWater) petition for modification of Decision (D.) 03-03-037 is granted as set forth. The expiration date for the Coast Springs water system new connection moratorium established in D.03-03-037 is extended to August 31, 2006. The one-year lead time discussed in D.03-03-037 for filing an application to extend the expiration date was not an order and therefore need not be extended. Instead, this decision establishes the August 31, 2006 moratorium expiration date as that filing deadline and authorizes a further moratorium extension when the application is filed, effectively granting CalWater the relief it seeks. This application is closed.

Discussion**The Moratorium**

In D.03-03-037, the Commission ordered CalWater to establish a moratorium on new water connections in its Coast Springs water system. Under the moratorium, CalWater may not exceed the number of connections allowed

for the system by the California Department of Health Services (DHS), currently 255 connections. CalWater maintains an “approved connections list,” a list of unserved applicants to whom it has committed its remaining available connections, and a “waiting list,” a prioritized list of those next in line to receive service commitments when connections become available.¹

One discussion paragraph and Ordering Paragraphs 1 and 4 in D.03-03-037 are relevant to our decision today. The discussion paragraph at page 10 states,

We will limit the moratorium to three years. That will provide sufficient time to make improvements and have the moratorium lifted, and to file a new application at least one year before the expiration date if an extension is needed. This ensures CalWater will either make the improvements that satisfy DHS, or will be back before us to explain why it has not complied with our earlier order and this order.

Ordering Paragraphs 1 and 4 state,

1. Not later than 30 days after this decision is mailed, California Water Service Company (CalWater) shall file and make effective on five days’ notice in accordance with General Order (GO) 96-A an advice letter establishing a moratorium on new connections by adding the following special condition in its tariff Schedule No. RV-CS-1:

Applicants requesting water service that would cause the Coast Springs water system to exceed 250 service connections, or such higher number of connections as DHS may subsequently allow under Coast Springs water

¹ According to CalWater’s petition, there are approximately twelve applicants on the approved service connections list, at least one of whom has now activated service. There are eleven individual applicants and one developer with a 14-lot parcel on the waiting list.

system's domestic water supply permit, will be placed on a waiting list. Once additional service connections become available, applicants on the waiting list will be notified in the order they were received. Any previously accepted application for water service in the Coast Springs water system will be revoked if proof of a valid building permit is not provided within 18 months of acceptance of the application for water service or [the date this order was mailed], whichever is later. Applicants who have had their approval revoked in this manner will be placed at the end of the waiting list. This Special Condition shall expire on [three years after the date this order was mailed] absent further order of the Commission.²

4. By the time the new connection moratorium established under Ordering Paragraph 1 is scheduled to expire, CalWater shall have completed all improvements necessary to remove the moratorium placed on Coast Springs by DHS and this Commission.

D.03-03-037 was mailed on March 17, 2003 and the moratorium was expected to expire on March 17, 2006. On February 17, 2006, the Commission's Executive Director granted CalWater's request under the Rules of Practice and Procedure, Rule 48(b), to extend that date to the date the Commission acts on this petition.

² This tariff Schedule No. RV-CS-1 special condition has been modified twice since it was established, once through an advice letter to raise the limit to 255 connections, and the second time through a petition to modify by appending additional wording granting an exception to two parcels. Neither change is relevant to our determination today.

CalWater's Petition

DHS has not lifted its connection moratorium, and CalWater has not filed an application to extend the Commission-imposed moratorium as the discussion paragraph quoted above suggested it should. With the Commission's moratorium set to expire when we issue this decision, CalWater now "petitions to modify D.03-03-037 for (i) relief from the filing date for its application to extend the moratorium; and (ii) a continuation of the moratorium until a decision issues on the application." Elsewhere in the petition, CalWater asks that the filing date for its application be extended to August 2006.

While CalWater has completed the two improvement projects it was specifically ordered to do in D.03-03-037 (reconstruction of Well #4, and a hydrogeologic study), work on a third project discussed (but not ordered) in the decision as a possible source of additional water has not been completed. According to CalWater's petition, that project, a water treatment plant needed to meet the DHS surface water treatment rule, is now more than 80% complete. In addition, CalWater is exploring other possible water supply sources outlined in the petition. Notwithstanding the progress it may have made, CalWater acknowledges it will not be in compliance with the Commission's D.03-03-037, Ordering Paragraph 4 requirement to have completed all improvements necessary to remove the moratorium placed on Coast Springs by DHS and this Commission by the March 17, 2006 expiration date of the three-year moratorium.

In D.03-03-037, the Commission found, "Coast Springs water system has reached the limit of its capacity in that it is unable to serve more connections than permitted in its domestic water supply permit without injuriously withdrawing the supply from its current users." That was the basis for the Commission's

imposing the moratorium, and we know of no reason that finding is not equally applicable today.

The one-year lead time suggested in D.03-03-037 for filing an application to extend the moratorium expiration date was not an order and therefore needs no modification. Instead, we will set August 31, 2006 as the new moratorium expiration date and the application filing deadline, and authorize a further moratorium extension when the application is filed, effectively granting CalWater the relief it seeks. If DHS has removed its new connection moratorium by that date, our moratorium will no longer be needed and can be allowed to expire. If DHS has not, CalWater will file an application explaining why it has not complied with D.03-03-037 and seeking additional time to do so. In the latter case, we will authorize CalWater to file concurrent with its application an advice letter deleting the expiration date tariff language, thus maintaining the moratorium in effect until the Commission's further order in the new application proceeding.

We need not examine CalWater's justification for the delay today. The costs and timing of the Coast Springs plant improvements are issues in the current Redwood Valley District general rate case, Application 05-08-013, and any further delays can be examined in a new application if and when it becomes necessary to extend the moratorium beyond August 31, 2006. For today, it is both necessary and sufficient to extend the moratorium and set an application filing deadline as CalWater requests.

Waiver of Comments

This is an uncontested matter pertaining solely to water companies. As such, it is exempt under Pub. Util. Code § 311(g)(3) from the public review and comment requirements of § 311(g).

Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and James McVicar is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. CalWater will not be in compliance with the Commission's D.03-03-037, Ordering Paragraph 4 requirement to have completed all improvements necessary to remove the new connection moratorium placed on Coast Springs by DHS and this Commission by March 17, 2006.
2. Coast Springs water system has reached the limit of its capacity in that it is unable to serve more connections than permitted in its domestic water supply permit without injuriously withdrawing the supply from its current users.
3. The new connection moratorium imposed in D.03-03-037 is still needed.
4. There is no known opposition to granting CalWater's request.
5. No evidentiary hearing is needed.

Conclusions of Law

1. The Commission's new connection moratorium for CalWater's Coast Springs system should continue as long as the DHS moratorium is in effect.
2. The one-year lead time suggested in D.03-03-037 for filing an application to extend the moratorium expiration date was not an order and therefore needs no modification.
3. CalWater should file an application explaining why it has not complied with D.03-03-037 and seeking additional time to do so if DHS has not lifted its new connection moratorium by August 31, 2006.
4. CalWater's petition for modification should be granted as set forth herein.
5. Because continuation of the moratorium is contingent on our order today, this order should be effective immediately.

O R D E R**IT IS ORDERED** that:

1. Decision (D.) 03-03-037, Ordering Paragraph 1, is modified to revise the moratorium expiration date set forth in the special condition to tariff Schedule No. RV-CS-1. The revised expiration date shall be August 31, 2006.
2. Not later than five days after the effective date of this order, California Water Service Company (CalWater) shall file and make effective as of the effective date of this order an advice letter revising the tariff Schedule No. RV-CS-1 special condition expiration date to that set forth in Ordering Paragraph 1 above.
3. If the California Department of Health Services' new connection moratorium on CalWater's Coast Springs water system has not been removed on or before August 31, 2006, CalWater shall by that date file a new application with this Commission requesting and justifying a further extension of the moratorium. Concurrent with that application filing, CalWater shall file an advice letter deleting the expiration date language from the tariff Schedule No. RV-CS-1 special condition, thus leaving the moratorium in effect until further order of the Commission. That advice letter shall become effective as of the date the new application is filed.
4. CalWater's petition to modify D.03-03-037 is granted as set forth above.
5. Application 02-03-032 is closed.

This order is effective today.

Dated _____, at San Francisco, California.